

CONSTRUCTION

NEW REBAR ANTI-DUMPING INVESTIGATION MAY CARRY MAJOR IMPLICATIONS FOR CANADA'S CONSTRUCTION INDUSTRY

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Introduction

On August 19, 2016, the Canada Border Services Agency ("CBSA") initiated an anti-dumping investigation into concrete reinforcing bar (also known as rebar) imported from Belarus, Chinese Taipei, Hong Kong, Japan, Portugal and Spain. Rebar is used widely across the construction industry to reinforce concrete in residential, industrial and commercial construction.

The complaint was filed by ArcelorMittal Long Products Canada (Contrecoeur, Quebec), AltaSteel Ltd. (Edmonton, Alberta) and Gerdau Ameristeel Corporation (Whitby, Ontario) (the "Complainants").

This investigation could adversely affect importers, manufacturers, exporters, distributors, retailers and end-user customers of rebar. For example, following a 2015 anti-dumping investigation into rebar, duties were imposed on rebar from China, Korea and Turkey at rates as high as 27 percent.

What is Dumping?

Dumping is a form of international price discrimination, in which the price of the product when sold in the importing country is less than the price for the same product in the exporting country's market. Anti-dumping laws are intended to protect Canada's domestic industry against unfairly traded goods from other countries.

Next Steps in the Canadian Investigation

Canadian anti-dumping investigations are a bifurcated, two-stage process.

First, the CBSA is responsible for determining the margin of dumping and amount of dumping duties payable on importations into Canada.

Once the CBSA has initiated a dumping investigation, the Canadian International Trade Tribunal ("CITT") is responsible for determining whether the dumped imports are causing injury to the Canadian industry.

Timeline

The upcoming key dates in this investigation are as follows:

- September 2, 2016: Deadline to file a notice of representation to participate in the CITT preliminary injury inquiry

- September 9, 2016: Importers must respond to the questionnaires issued by CBSA
- September 20, 2016: Deadline for submissions to the CITT by parties opposed to the complaint (usually importers, exporters, foreign producers and Canadian end-users)
- September 26, 2016: Exporters must respond to the questionnaires issued by CBSA
- October 19, 2016: CITT will issue its preliminary dumping determination
- November 17, 2016: CBSA will issue its preliminary dumping determination
- November 18, 2016: CITT will initiate its injury inquiry
- February 15, 2017: CBSA will issue its final determination of dumping
- March 15, 2017: CITT will issue its final determination of injury

What It Means for the Rebar Industry

This investigation may adversely affect foreign producers and exporters, as well as Canadian importers, distributors, retailers and end-users of rebar. If the CBSA makes a dumping determination and the CITT finds that such dumping is causing material injury to the Canadian industry, anti-dumping duties will be applied to all shipments of rebar for the next five years.

It is therefore critical that companies act now to protect their interests throughout the investigation process.

Protect Your Interests

There are many avenues for importers, distributors, retailers, and end-users of rebar to participate in the CITT process to protect and promote their interests:

- Advocate for a 'No Injury' Finding:** The CITT investigation will focus on the extent of injury that is caused by rebar imports that are deemed to have been dumped. The CITT will only impose anti-dumping duties if there is evidence of injury to Canadian industry as a result of the dumping. Importers, retailers, distributors, and end-users can participate in the CITT process to argue that duties ought not to be imposed on imports of rebar.
- Apply for an Exclusion:** During the CITT process, interested parties may apply for exclusions from any duties imposed on rebar.

- 3. Request a Public Interest Hearing:** It is possible to request that a public hearing be held to determine whether the imposition of duties is in the public interest.

Interested parties are well advised to act early to advocate for their interests during the CBSA and CITT investigations. Dickinson Wright's international trade lawyers are experienced in the rules governing Canada's anti-dumping regime and are available to assist companies in making submissions.

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